IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 390 of 2001 (M/B)

1. Sri Shashi Kumar Nagi,
son of Sri Jogindra Nath Nagi,
resident of Nirankari Bhawan,
Camel's Back, Mussoorie, Dehradun.

2. Sri Deepak Kumar Bhatt,
son of Sri S.D. Bhatt,
resident of Charlie Ville Road,
Madan Niwas, Mussoorie, Dehradun. ……..Petitioners

Versus

1. Sate of U.P. through District Magistrate, Dehradun.
2. S.H.O., Police Station – Mussoorie, Dehradun
3. Mussoorie Dehradun Development Autrhority,
Dehradun through its Vice Chairman.
4. Municipal Board, Mussoorie, Dehradun
through its Executive Officer. ……..Respondents

……..

Mr.Arvind Vashishta, Advocate for the Petitioners.
Mr. N.C.Gupta, Standing Counsel for the State.

JUDGMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. M.M. Ghildiyal, J.

Rajeev Gupta, C.J. (Oral)

The petitioners have filed this petition for the following reliefs:

"I) to issue a writ, order or direction in the nature of mandamus directing the respondents not to demolish the constructions of the petitioners in which they are running their business of S.T.D. Booth and further the respondents be restrained from interfering in the possessing of the petitioners in respect of shop aforesaid;

ii) to issue any other writ, order or direction which this Hon'ble Court deem fit and proper in the circumstances of the case;

iii) to award costs of the petition to the petitioners."

2. Admittedly, the shop in question was never leased out to any of the petitioners by respondent no.4. On the contrary, what we gather from Annexure 1 is that the shop in question was leased out to one Sri S. K. Verma in the year 1986 for a period of five years for running a milk-booth. The first prayer in the petition reveals that the petitioners are running a S.T.D. booth in the said shop. As the shop in question was never leased out to any of the petitioners, we do not find any right in favour of any of the petitioners.

4. The petition, therefore, is liable to be dismissed and is hereby dismissed. Consequently, the interim order dated 18.09.1997 stands vacated automatically.

(M.M. Ghildiyal , J.) **(Rajeev Gupta, C.J.)**

28.02.2006
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